IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12088 of 2005

Between:

D.Rangaiah, s/o P.C.Narayanappa,
Linga Dahal Village, r/o Srirangapuram Village, Bommanahal Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur.
2 The Revenue Divisional Officer, Dharmavaram, Anantapur District.
3 The Mandal Revenue Officer, Bommanahal Mandal, Anantapur District.

.....RESPONDENTS

Note: R-4 impleaded as per orders of this Court dated:16-06-05.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed Rc.K4/DMV/572/2005 dated 9-5-2005 as illegal and consequently stay the order of the 2nd respondent passed in Rc.No.753/2005/F dated 14-4-2005 pending disposal of the appeal before the 1st respondent and pass such further or other orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORAL ORDER

The District Collector, Anantapur shall be impleaded as the 4th respondent in this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies for all the respondents. The writ petition is directed against an order of the 1st respondent-Joint Collector, Anantapur dated 09-05-2005 rejecting the application of the petitioner for interim stay of the order dated 14-04-2005 of the Revenue Divisional Officer, Dharmavaram, Anantapur District. By the order the Revenue Divisional Officer, Dharmavaram, suspended the authorization of the petitioner for the irregularities allegedly committed by the petitioner as recorded in the order of suspension dated 14-04-2005.

The order of the Revenue Divisional Officer, Dharmavaram and the orders of the Joint Collector, impugned in this writ petition are illustrative of the total lack of comprehension of these two authorities of the minimum standards of quasi judicial discipline required in passing orders of suspension of authorization or hearing appeals and interlocutory applications against such orders, respectively. By the order dated 14-04-2005 the Revenue Divisional Officer, Dharmavaram after listing out the charges which are based on a report of the Mandal Revenue Officer concerned records in the penultimate paragraphs as under::

1. CHARGE No.1: That the F.P.shop dealer has distributed AAY rice 25 kgs to Sri C.Raju card No.15386 instead of 35 kgs from date of issue of AAY cards to the beneficiaries. He is issuing rice at the rate of Rs.3-50 instead of Rs.3-00 per kg to the cardholder. He has misused 240 kgs rice from the cardholders for his

personal gain.

2. CHARGE No.2: Sri T.Rangaiah F.P.Slhop dealer, Lingadhal village is selling PDS frice and PDS kerosene at higher rates than the rates fixed by the Government i.e.,PDS rice Rs.5-50 per kg instead of Rs.5-25 per kg and PDs K.Oil at Rs.11-00 per litre instead of Rs.9-50 per liter which is grave irregularity.

3. CHARGE No.3: Sri T.Rangaiah F.P.shop dealer, Lingadhai village is distributing essential commodities to the cardholders with less weighment.

4. CHARGE No.4: Sri T.Rangaiah,F.P.shop dealer, Lingadhai village has not made any entries in the cards in token of issue of Essential Commodities to the cardholders which is highly irregular. Hence the dealer has not functioned properly in distribution of ECS to the cardholders by making entries in the cards.

5. CHARGE No.5: That the F.P.shop dealer has distributed K.Oil to the cardholders 2 liters instead of 3 liters.

6. CHARGE No.6: The F.P.shop dealer is distributing Essential commodities to the cardholders from Sree Rangapuram village which is not notified area to run the F.P.shop instead of Lingadhai village. As such he caused much inconvenience to the cardholders to get their Ecs from Sree Rangapuram, which is highly irregular for distributing Ecs at Sree Rangapuram village.

In view of the above it is evident that, Sri T.Rangaiah, F.P. shop dealer Lingadhai village has misused 240 kgs AAY rice he has collected Rs.3-50 per kg instead of 3-00 from each AAY cardholder for AAY rice. He has also not made entries in the cards and he is distributing Essential Commodities to the cardholders at Sree Rangapuram village instead of at Lingadhai village, which is a grave irregularity in distribution of essential commodities to the cardholders. Hence the authorization held by Sri T.Rangaih, F.P. shop dealer Lingadhai village is hereby suspended for having committed the above irregularities. He should appear before the Revenue Divisional Officer, Dharmavaram along with his explanation within 15 days from the date of receipt of the orders.(emphasis added)

The Revenue Divisional Officer, Dharmavaram as per the order above, is seem to have already made up his mind as to the guilt of the petitioner in respect of the charges alleged against him. At the stage at which the order dated 14-04-2005

has been passed, only charges have been communicated to the petitioner. Therefore, there was nothing on record enabling a conclusion by the 2nd respondent that the petitioner is guilt as charged. Each of those charges are required to be established by some evidence either oral or documentary and after reasonable opportunity to the petitioner. In any event against the order of suspension of his authorization the petitioner preferred an appeal to the Joint Collector-1st respondent herein. The 1st respondent while rejecting the application of the petitioner for stay of the orders of suspension records that the petitioner had not produced any substantive evidence to counter the charges. This conclusion by the 1st respondent discloses a total non-application of mind and lack of comprehension even of the minimum standards of quasi-judicial adjudication. It is for the accuser, in this case the department to establish the charges. The petitioner as a dealer might be called upon to produce the records as part of the enquiry into the irregularities of the functioning of the F.P.shop, but the obligation to establish the charges is that of the department which is making the charges. It is not disputed that principles of natural justice are applicable to the enquiry into the charges against the petitioner. These principles of natural justice and the established principles of administrative and public law postulate that any person charged either of an offence or of a misconduct in civil law is presumed to be innocent till established otherwise. These fundamental principles of public law have either been ignored by the 1st and 2nd respondents or there was nothing in their training which has sensitized them to these established principles before conferring on them quasi judicial obligations. In any event such ignorance as established in the impugned orders constitute a travesty of public law administration in this area. It is for this reason that the 4th respondent has been impleaded as it is conceded by the parties before this Court that the said respondent is a revisional authority to which a revision lies against the orders of the 1st respondent rejecting the appeal against the orders of the 2nd respondent. The 4th respondent is also the District Collector.

In the circumstances recorded herein above and in the light of the observations and comments made on the orders of the 1st and 2nd respondent, the 4th respondent shall take appropriate administrative steps to entrust the enquiry into the charges against the petitioner and the appellate jurisdiction against such orders to appropriate officers who, in the considered view of the 4th respondent, are

acquainted with established principles of administrative law as to enable an efficient and due discharge of the quasi judicial obligations. The orders of the 2nd respondent dated 14-04-2005 and of the 1st respondent dated 09-05-2005 are set aside.

Nothing in this order shall however prevent the appropriate authorities from initiating appropriate proceedings and expeditiously against the petitioner in view of the gravity of the allegations made against him.

The writ petition is disposed of as above. No order as to costs.

GODA RAGHURAM,J

16TH JUNE 2005

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To

1 The Joint Collector, Anantapur.
2 The Revenue Divisional Officer, Dharmavaram, Anantapur District.
3 The Mandal Revenue Officer, Bommanahal Mandal, Anantapur District.

4 The District Collector, Anantapur.

5. Two CCs to G.P for Civil Supplies, High Court Buildings, Hyderabad(OUT)

6. Two C.D.Copies.